

**Water Pollution Control Advisory Council
Report to Water Policy Interim Committee
July 11, 2016**

Purpose: The Water Pollution Control Advisory Council (WPCAC or Council) is an advisory council authorized by statute (§ 2-15-2107, MCA). WPCAC represents a diverse array of Montana interests and plays an important role in formulating Montana's water quality policy. Council members serve in an advisory capacity to the Department of Environmental Quality (DEQ) by furnishing advice, gathering information, and making recommendations. The Council also reviews and advises the Department on draft administrative rules prior to their consideration by the Board of Environmental Review (BER).

WPCAC's duties are defined in two places in statute: (1) the Montana Water Quality Act (§ 75-5-307(1), MCA) directs the Council to be given at least 30 days prior to the first publication of proposed administrative rules to comment on the proposed rulemaking; and (2) § 75-5-221, MCA makes clear that the Council "shall act only in an advisory capacity to the department on matters relating to water pollution."

DEQ uses WPCAC for review throughout the process of regulation development starting with the early stages through ensuring opportunity for WPCAC review and comment on proposed rules that are ready to go to the BER for rulemaking. Public review and discussion by WPCAC helps improve regulations by increasing public understanding and involvement. The regularly-scheduled opportunities provided by having this advisory group in place provide a structured venue to encourage interested parties to both anticipate and stay informed through WPCAC's regularly scheduled meetings and the "interested parties" communications that occur as a normal part of meeting preparation. WPCAC and the public often provide feedback that help DEQ fine tune regulation prior to formal rulemaking. There have been times when the department has delayed rulemaking and conducted additional stakeholder work in response to Council direction.

Membership: WPCAC consists of eleven members who are appointed by the Governor and include:

- (a) a representative of industry concerned with the disposal of inorganic waste;
- (b) a representative of industry concerned with the disposal of organic waste;
- (c) a supervisor of a soil and water conservation district;
- (d) an irrigated agriculture representative;
- (e) a production agriculture representative;
- (f) a person serving as public works director, director of public utilities, wastewater or public works superintendent, plant manager, or operator in charge of a publicly owned treatment works;
- (g) a conservation organization representative;
- (h) a realtor or developer representative;
- (i) a licensed professional engineer with experience in sanitary engineering;
- (j) a fisheries biologist; and
- (k) a member of the public.

Recent Issues: The Council's work over the past year has included:

- Review and recommendation to proceed with proposed Water Quality Act administrative rule cleanup.
- Review of proposed site-specific water quality standards for Otter Creek.
- Review and recommendation to proceed with the opening of the Triennial Review of water quality standards.
- The Council has also received educational briefings by the Department in a number of substantive areas.

History: This Council has been in existence since the early 1970s, and its focus and composition have been modified several times since then. The latest change in composition was enacted by the 2003 Legislature.

Status: Active, the Council adopts a meeting calendar each year. Meetings are held in Helena, and are scheduled to occur approximately 1 month prior to each regularly-scheduled meeting of the BER, which occur approximately every other month. In practice the council has met 3 to 5 times a year, since meetings are cancelled when the agenda is light. Some meetings are held via conference call as deemed practical to minimize time and travel expense. Meeting materials are transmitted to members via email and are maintained on a DEQ-hosted web site, which is also available to the public.

Past agendas, minutes and presentations are posted at:

<http://deq.mt.gov/Water/WQINFO/wpcac/agendasmeetingspresentations>.

WPCAC's webpage is found at: <http://deq.mt.gov/Water/WQINFO/wpcac>

Next meeting: September 9, 2016.

Water Pollution Control Advisory Council Relevant Statutes

2-15-2107. Water pollution control advisory council. (1) There is a water pollution control advisory council.

(2) The council consists of 11 members. The members are appointed by the governor and include:

- (a) a representative of industry concerned with the disposal of inorganic waste;
 - (b) a representative of industry concerned with the disposal of organic waste;
 - (c) a supervisor of a soil and water conservation district;
 - (d) an irrigated agriculture representative;
 - (e) a production agriculture representative;
 - (f) a person serving as public works director, director of public utilities, wastewater or public works superintendent, plant manager, or operator in charge of a publicly owned treatment works;
 - (g) a conservation organization representative;
 - (h) a realtor or developer representative;
 - (i) a licensed professional engineer with experience in sanitary engineering;
 - (j) a fisheries biologist; and
 - (k) a member of the public.
- (3) The appointed council members serve at the pleasure of the governor.
- (4) Subsections (5) through (8) of 2-15-122 apply to the council and members.

2-15-122. Creation of advisory councils. . . . (5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually by multiplying the base income of \$50 by the ratio of the PCE for the second quarter of the previous year to the PCE for the second quarter of 1995 and rounding the product to the nearest whole dollar amount.

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

75-5-221. Water pollution control advisory council -- general. (1) The council provided for in 2-15-2107 shall select a presiding officer from among its members. The director of the department of environmental quality shall designate a member of the staff of the department to act as secretary to the council. The secretary shall keep records of all actions taken by the council.

(2) Meetings must be held at the call of the presiding officer or on written request of two or more members.

(3) Each member may, by filing with the secretary, designate a deputy or alternate to perform the member's duties.

(4) The council shall act only in an advisory capacity to the department on matters relating to water pollution.

(5) The director of the department may designate other persons to participate with council members in evaluating particular issues arising under this chapter that are brought before the council.

75-5-307. Hearings required for classification, formulation of standards, and rulemaking. (1) Before streams are classified or standards established or modified or rules made, revoked, or modified, the board shall hold a public hearing. Notice of the hearing specifying the waters concerned and the classification, standards, or modification of them and any rules proposed to be made, revoked, or modified shall be published at least once a week for 3 consecutive weeks in a daily newspaper of general circulation in the area affected. Notice shall also be mailed directly to persons the board believes may be affected by the proposed action. *The council shall be given not less than 30 days prior to first publication to comment on the proposed action.*